

COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF STATE BEFORE THE SECRETARY OF THE COMMONWEALTH

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Commonwealth of Pennsylvania Bureau of Commissions, Elections and Legislation

File No.:

14-99-09803

vs.

Lisa Marie Deeley, Notary Public Respondent Docket No:

0040-99-17

CONSENT AGREEMENT AND ORDER

PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Commissions, Elections and Legislation ("Commonwealth") and Lisa Marie Deeley, Notary Public ("Respondent") stipulate as follows in settlement of the above-captioned case.

APPLICABLE LAW

1. This matter is before the Notary Public Law, the Act of August 21, 1953, P.L. 1323 §§ 1-22.1, as amended, 57 P.S. §§ 147-169 ("Law"), the Uniform Acknowledgement Act, Act of July 24, 1941, P.L. 490, as amended, 21 P.S. § 291.1-13 ("Act").

JURISDICTION

- 2. This matter is before the Secretary of the Commonwealth ("Secretary") pursuant to the Notary Public Law, Act of August 21, 1953, P.L. 1323, No. 373 as amended, 57 P.S. §§147-169 (Law) and/or the Uniform Acknowledgement Act, Act of July 24, 1941, P.L. 490, as amended, 21 P.S. § 291.1-13(Act) of 1953, P.L. 1323, as amended ("Law"), 57 P.S. §§ 147-169.
- 3. At all relevant and material times, Respondent held a commission to practice as a notary public in the Commonwealth of Pennsylvania: I.D. number 1037012.

STIPULATED FACTS

- 4. The Respondent admits that the following allegations are true:
- a. Respondent holds the following commission to practice as a notary public in the Commonwealth of Pennsylvania: Notary I.D. 1037012.
- b. Respondent's current commission was issued on February 8, 2015, and expires on February 8, 2019.
- c. Respondent was previously commissioned as a notary public in the Commonwealth of Pennsylvania at the following times: (1) February 8, 1995, to February 8, 1999; (2) February 8, 1999, to February 8, 2003; (3) February 8, 2003, to February 8, 2007; (4) February 8, 2007, to February 8, 2011; and (5) February 8, 2011, to February 8, 2015.
- d. At all times pertinent, Respondent held a commission to practice as a notary public in the Commonwealth of Pennsylvania.
- e. Respondent's last known business and home address on file with the Department of State is: 7 Philadelphia, PA 19152.
- f. On or about April 1, 2010, Respondent notarized the alleged signature of Lynda Costello on a spousal waiver form.
- g. A true and correct copy of this spousal waiver form is attached as **EXHIBIT A** and incorporated by reference.
 - h. Lynda Costello did not sign this spousal waiver form.
 - i. Lynda Costello did not appear before Respondent.
- j. On or about January 24, 2011, Respondent notarized the alleged signature of Lynda Costello on a second spousal waiver form.

- k. A true and correct copy of this second spousal waiver form is attached as **EXHIBIT B** and incorporated by reference.
 - 1. Lynda Costello did not sign this second spousal waiver form.
 - m. Lynda Costello did not appear before Respondent.
- n. During the investigation into this matter, Respondent was interviewed by Bureau of Enforcement and Investigation (BEI) Professional Conduct Investigator Jessie J. Bennett (PCI Bennett).
- o. During her interview, Respondent stated she did not ask the individual who came into her office for identification.
 - p. Respondent provided portions of her notary register to PCI Bennett.
- q. A true and correct copy of Respondent's notary register is attached as
 EXHIBIT C and is incorporated by reference.
- r. Respondent has failed to record in her notary register the character of the act, amount of fee collected, and either the date of the act or the date of the instrument.
- s. Respondent asserts in mitigation, and the Commonwealth neither admits nor denies, the following:
 - (1) Respondent at all relevant times fully cooperated with the Secretary of the Commonwealth into the inquiry relating to this matter.
 - (2) On April 1, 2010, a person known to

 Respondent as Charles "Chuck" Costello personally

appeared before Respondent and identified the affiant as his wife, Lynda Costello.

- (3) At the time of the execution of the notarization of the spousal waiver form, Respondent had no reason to believe that the affiant was not the affiant, Lynda Costello, and Respondent believed based on the above that she had satisfactory evidence at the time of the identity of the person purporting to be Mrs. Costello.
- (4) On or about January 24, 2011, the purported husband of Lynda Costello, Charles "Chuck" Costello, appeared in person with the person he identified as his wife, who executed a second spousal waiver form that Respondent notarized.
- (5) No notary fee was ever charged or received by Respondent regarding Charles "Chuck" Costello or the person represented at the time to Respondent as Lynda Costello.
- t. Respondent agrees, understands and acknowledges that the acceptance of the stipulated sanction imposed on Respondent's notary commission by the Secretary of the Commonwealth constitutes public discipline.

ALLEGED VIOLATIONS

5. Based upon the foregoing factual allegations, the Secretary of the Commonwealth may, for good cause, issue a written reprimand, impose a civil penalty, suspend or revoke the

Respondent's commission, and/or order the Respondent to attend additional educational courses under the authority of Section 22 of the Act, 57 P.S. §168 because:

- a. Respondent failed to know through personal knowledge or have satisfactory evidence that the person appearing before her was the person described in and who was executing the instrument, in violation of Section 12.1 of the Law, 57 P.S. § 158.1, by notarizing the signature of Lynda Costello on two occasions when she was not present.
- b. Respondent failed to maintain an accurate notary register, in violation of Section 15(a) of the Law, 57 P.S. § 161(a), by failing to record the character of the act, amount of fee collected, and either the date of the act or the date of the instrument.

PROPOSED ORDER

- 6. The parties, intending to be legally bound, consent to the issuance of the following Order in settlement of this matter:
 - a. Based upon the foregoing factual allegations, the Secretary of the Commonwealth may, for good cause, issue a written reprimand, impose a civil penalty, suspend or revoke the Respondent's commission, and/or order the Respondent to attend additional educational courses under the authority of Section 22 of the Act, 57 P.S. §168 because:
 - (1) Respondent failed to know through personal knowledge or have satisfactory evidence that the person appearing before her was the person described in and who was executing the instrument, in violation of Section 12.1

of the Law, 57 P.S. § 158.1, by notarizing the signature of Lynda Costello on two occasions when she was not present.

(2) Respondent failed to maintain an accurate notary register, in violation of Section 15(a) of the Law, 57 P.S. § 161(a), by failing to record the character of the act, amount of fee collected, and either the date of the act or the date of the instrument.

VOLUNTARY SURRENDER

- b. Respondent agrees to PERMANENTLY AND VOLUNTARILY SURRENDER Respondent's notary commission.
 - (1) Respondent will submit to the Bureau
 Respondent's notary seal, notary embosser, and notary
 commission (or affidavit of loss or destruction), along with
 a signed copy of this Consent Agreement.
 - (2) Within thirty (30) days of the Secretary's approval of this Consent Agreement, Respondent will deliver Respondent's notarial register to the office of the recorder of deeds in the proper county.
 - (3) The acceptance of the stipulated sanction on Respondent's notary commission by the Secretary of the Commonwealth constitutes public discipline.
 - (4) Respondent agrees that Respondent will not apply for a notary commission at any time in the future.

- (5) Nothing in this Order shall preclude the
 Prosecuting Attorney for the Commonwealth from filing
 charges or the Secretary from imposing disciplinary or
 corrective measures for violations or facts not contained in
 this Consent Agreement.
- (6) This case shall be deemed settled and discontinued upon the Secretary issuing an Order adopting this Consent Agreement.

ADMISSIBILITY OF CONSENT AGREEMENT IN FUTURE PROCEEDINGS

7. Respondent agrees that if Respondent is charged with a violation of an Act enforced by the Secretary in the future, this Consent Agreement and Order shall be admitted into evidence without objection in that proceeding.

ACKNOWLEDGMENT OF NOTICE AND WAIVER OF HEARING

Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and knowingly and voluntarily waives the following rights related to that hearing: to be represented by counsel at the hearing; to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

ACKNOWLEDGMENT OF RIGHT TO ATTORNEY

9. Respondent acknowledges that Respondent is aware that Respondent has the right to consult with, and/or be represented by, private legal counsel of Respondent's choosing and at Respondent's expense when reviewing, considering and accepting the terms of this Consent

Agreement. To the extent that Respondent is not represented by legal counsel, Respondent has knowingly elected to proceed without the assistance of legal counsel.

WAIVER OF CLAIM OF COMMINGLING AND OTHER CONSTITUTIONAL CLAIMS

Respondent expressly waives any constitutional rights and issues, such as 10. commingling of prosecutorial and adjudicative functions by the Secretary or the Secretary's counsel, which may arise or have arisen during the negotiation, preparation and/or presentation of this Consent Agreement. Respondent specifically agrees that if the Secretary rejects this agreement, it may assume that the facts and averments as alleged in this Consent Agreement are true and correct for the limited purpose of recommending a sanction, based on those assumed facts that would be acceptable to the Secretary before hearing the case. In the event that the Secretary does assume the facts and averments as alleged in this Consent Agreement are true for purposes of making a recommendation as to an acceptable sanction, such action shall not constitute commingling of prosecutorial and adjudicative functions by the Secretary or the Secretary's counsel, and the Respondent expressly waives any constitutional rights and issues related to alleged commingling, bias, or violation of due process rights to have an unbiased and impartial adjudicator in any subsequent hearing. If a hearing is subsequently held, neither this Consent Agreement nor the proposed terms of settlement may be admitted into evidence and any facts, averments, and allegations contained in the Consent Agreement must be proven at hearing unless otherwise separately stipulated. This paragraph is binding on the participants even if the Secretary does not approve this Consent Agreement.

NO MODIFICATION OF ORDER

11. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the Stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

AGREEMENT NOT BINDING ON OTHER PARTIES

12. The Office of General Counsel has approved this Consent Agreement as to form and legality; however, this Consent Agreement shall have no legal effect unless and until the Secretary issues the stipulated Order.

EFFECT OF SECRETARY'S REJECTION OF CONSENT AGREEMENT

13. Should the Secretary not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Secretary shall not prejudice the Secretary from further participation in the adjudication of this matter. This paragraph is binding on the participants even if the Secretary does not approve this Consent Agreement.

ENTIRE AGREEMENT

14. This agreement contains the whole agreement between the participants; provided however, that the captions printed in the various provisions of this agreement are for ease of reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

AGREEMENT DOES NOT PREVENT ADDITIONAL DISCIPLINE BASED ON OTHER COMPLAINTS

15. Nothing in this Consent Agreement or the Order based upon this Consent

Agreement shall preclude the Prosecuting Attorney for the Commonwealth from filing charges
or the Secretary from imposing disciplinary or corrective measures for violations or facts not
contained in this Consent Agreement.

VERIFICATION OF FACTS AND STATEMENTS

16. Respondent verifies that the facts and statements set forth in this Consent

Agreement are true and correct to the best of Respondent's knowledge, information and belief.

Respondent understands that statements in this Consent Agreement are made subject to criminal penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Andrea L. Costello Prosecuting Attorney

Respondent

DATED: June 08, 20/8

James C. Crumlish, III, Esquire

For the Respondent

DATED:

A. Mandatory State Withholding: If you reside in a state where state income tax withholding is mandatory AR, CA*, DE, IA, KS, MA, MD (mandatory for eligible rollover distributions only, subject to 20% mandatory federal withholding), ME, NC, NE, OK*, OR*, VA or VT* applicable withholding will be deducted automatically, unless an election out is applicable (see below). Note: Some states require withholding if federal income tax is withheld from the distribution. Election For Withholding ... of State I My resident state is AR, DE, KS, ME, NC, NE, or VA (for NE and VA, election out is allowed for payments from IRA's only) and I do not want state income tax withholding deducted from my distribution. (An election out of AR, DE, KS, ME, NC, or VA state tax is not allowed for eligible rollover distributions, subject to 20% mandatory federal withholding.) Important note to Maine (ME) residents, If you elect out of ME withholding, you must either have elected out of federal withholding, or have no Maine State tax liability in the prior or current years. Income Taxes (For Single Sum Payments and Rollovers of non-Roth *My resident state is one of the following: CA, OK, OR, **VT and withholding is required if federal income tax is withheld subject to 20% mandatory federal withholding, unless I elect out of state money to a withholding. By checking this box I am electing out of state withholding. **An election out is not allowed for eligible rollover distributions. Roth IRA) B. Voluntary State Withholding: Please check the appropriate box below. If state income tax withholding is not mandatory in your state, you may be allowed to request state tax withholding. If your state of residence is not listed, or if you choose a method of withholding that is not offered for your state, we cannot withhold state income tax. I reside in one of the following voluntary withholding states: AL, CO, CT, DC, GA, ID, II, IN, KY, LA, MD (non-eligible rollover distributions only), MI, MN, MO, MS, MT, ND, NJ, NM, NY, OH, PA, RI, SC, UT, WI, WV (NE and VA state withholdong is voluntary for payments from IRA's only) and would like state income tax withheld. (Specify a percentage or dollar amount to be withheld.) I reside in one of the voluntary withholding states listed above and I do not want state income tax withholding deducted from my distribution. C. No State Withholding: Some states do not have state income tax withholding My resident state is one of the following: AK, FL, HI, NV, NH, SD, TN, TX, WA, WY and there is no state income tax withholding. My resident state is AZ and there is no state income tax withholding on non-periodic (single sum) payments. I am the participant's spouse. I understand that I am entitled to a spousal death benefit under the Plan based on the participant's account balance at the time of his or her death. I understand that if this spousal *For Married benefit is in the form of a "qualified joint and survivor annuity" or QJSA, an explanation of the QJSA and **Participants** other payment options was provided to the participant. I realize that the participant cannot walve this spousal benefit and obtain a distribution in the form requested by the participant or obtain a loan unless I Spousal consent. I acknowledge that the transaction requested by the participant may reduce or eliminate any Waiver benefit otherwise payable to me. I have reviewed the paperwork associated with the participant's request (We are and confirm that it identifies the payment option requested by the participant and any non-spouse unable to beneficiary. I voluntarily consent to the participant's Avaiver or loan request and acknowledge that this will accept a fax copy notarized authorize the request. with a raised Spouse's signature X Seall (Spouse's signature must be witnessed by a notary public OR, authorized plan representative.) Subscribed and sworn before me this , the year _ State of **Fennsy** County of My commission expires COMMONWEALTH OF PENNSYER Stamp) NOTARIAL SEAL Notary's signature X ISA MARIE DEELEY: Notary Pub! City of Philadelphia Phila. Cour Authorized plan representative's signature X EXHIBIT

irrortant information continued on the following page

id. 03/02/2009

Plan number: 767472

*For Married **Participants**

Spousal Waiver (We are unable to accept a fax copy notarized with a raised Seall

I am the participant's spouse. I understand that I am entitled to a spousal death benefit under the Plan based on the participant's account balance at the time of his or her death. I understand that if this spousal benefit is in the form of a "qualified joint and survivor annuity" or QJSA, an explanation of the QJSA and other payment options was provided to the participant. I realize that the participant cannot waive this spousal benefit and obtain a distribution in the form requested by the participant or obtain a loan unless I consent. I acknowledge that the transaction requested by the participant may reduce or eliminate any benefit otherwise payable to me. I have reviewed the paperwork associated with the participant's request and comfirm that it identifies the payment option requested by the participant and any non-spouse beneficiary. I voluntarily consent to the participant's waiver or loan request and acknowledge that this will authorize the recurrent. authorize the request.

(Spouse's signature must be witnessed by a notary public OR authorized plan representative. Spouse and Notary must sign and date the form at the same time and on the same date. The dates must match.)

SCHUARLY, the year. Subscribed and sworn before me this

DAMMONWEALTH OF PENNSYLVANIA lunnia County of LISA MARIE DEECE My commission expires

City of Philadelphia, Phila, County Commission Expires February 8, 2011 Notary's signature X

Authorized plan representative's signature X

Your

I certify that the information I have provided is true and correct and will be relied upon in processing my request and the tax implications regarding this disbursement. I understand that any failure in this regard, Authorization inaccurate assertion or misrepresentation may jeopardize the ability of my employer to offer the plan and may subject me to disciplinary action, including severance from employment. I will be responsible for its accuracy in the event any dispute arises with respect to the transaction. I certify all other distributions (other than hardship distributions) and non-taxable loans have been obtained or sought and any loans which are available will cause further hardship, therefore this hardship disbursement is necessary.

> I have read the explanation of the Qualified Joint and Survivor Annuity (QJSA) and other payment options that was provided and I know that I have the right to receive my benefits as a joint and survivor annulty if I am married or a life annuity if I am not married. I also know I can waive the right to annuity payments, with the consent of my spouse if I am married. I understand that if I waive those rights I can change my mind and revoke the waiver at any time before my payments begin. I have at least 30 days to decide whether or not to waive the annuity payments. By consenting to this distribution, I understand I am waiving my right to a life annuity.

If there are investment options available through your retirement account that are subject to the fund's market timing policies, you may be subject to restrictions or incur fees if you engage in excessive trading activity in those investments. You may wish to review the fund prospectus or your retirement account's market thining policy prior to submitting this transaction request. If a fee applies to the transaction, you will be able to view the details after the transaction is processed by logging on to the retirement internet site at

ww.prudential.com/online/retirement.

Participant's signature

Ed. 01/07/2011

Charles J Costello Plan number: 767472

EXHIBIT

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COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF STATE BEFORE THE SECRETARY OF THE COMMONWEALTH

Commonwealth of Pennsylvania Bureau of Commissions, Elections and Legislation

File No.:

14-99-09803

VS.

Lisa Marie Deeley, Notary Public Respondent **Docket No:**

0040-99-17

ORDER

AND NOW, this 3rd day of August 2018, the ACTING SECRETARY OF THE

COMMONWEALTH ("Secretary") adopts and approves the foregoing Consent Agreement and incorporates the terms of paragraph 6, which shall constitute the Secretary's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

BY ORDER:

ACTING SECRETARY OF THE COMMONWEALTH

Honorable Robert Torres

Acting Secretary of the Commonwealth

For the Commonwealth:

Andrea L. Costello, Esquire 2601 North Third Street P.O. Box 69521

Harrisburg, PA 17106-9521

For the Respondent:

James C. Crumlish, III, Esquire Elliott Greenleaf, P.C. 925 Harvest Drive Blue Bell, PA 19422

Date of mailing:

8,2018